



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2  
290 Broadway  
New York, NY 10007-1866

April 20, 2021

VIA E-MAIL

David J. Miller  
Giordano, Halleran & Ciesla, P.C.  
125 Half Mile Road  
Suite 300  
Red Bank, New Jersey 07701-6777  
[dmiller@ghclaw.com](mailto:dmiller@ghclaw.com)

Re: Initial Nonbinding Opinion on Reimbursement from the Post-Closure Trust Fund,  
PROTECO Superfund Site, Peñuelas, Puerto Rico

Dear Mr. Miller:

Please accept this letter in response to your April 5, 2021 letter submitted on behalf of the Proteco Landfill Superfund Site Generator Parties Group (the "Group"). Your April 5, 2021 letter requested an initial, nonbinding opinion from EPA pursuant to Paragraph 60(b) of the October 6, 2020 Administrative Settlement Agreement and Order on Consent ("AOC") for the PROTECO Site (the "Site") as to whether certain costs to be incurred by the Group are reimbursable post-closure expenditures.

As you know, a post-closure trust fund was required pursuant to an amended consent decree in U.S. v. Proteco, et al., Civil No. 86-1698, entered on November 20, 1997. The amended consent decree limits use of post-closure trust fund monies to payment for post-closure activities. The post-closure trust fund was established for the benefit of EPA pursuant to a May 1998 Trust Agreement.

By this letter, EPA provides an initial, nonbinding opinion that reasonable costs incurred for site preparation activities, including site clearing work, would constitute post-closure expenditures reimbursable from the post-closure trust fund. The above-referenced May 1998 Trust Agreement grants the EPA Regional Administrator the authority to direct payments (and to specify the amount of such payments) from the post-closure trust fund for costs of post-closure care. As such, this letter is an initial, nonbinding opinion that may or may not be accepted by the EPA Regional Administrator. Furthermore, EPA reserves the right to modify this opinion after further review of relevant information, including an itemized list of completed post-closure activities and the documented cost of performing each activity, as required by Paragraph 60(c) of the AOC.

Finally, Paragraph 60(a) of the AOC requires the submittal of a work plan detailing planned post-closure activities. We understand that a site clearing work plan will be submitted to EPA in advance of any site clearing work, and we look forward to reviewing that submission.

Please contact me at (212) 637-3197 or [Leshak.Andrea@epa.gov](mailto:Leshak.Andrea@epa.gov) with any questions concerning this matter.

Sincerely,

Andrea Leshak  
Assistant Regional Counsel